

Testimony of Jerry M. Place  
President, Western Nut Company, Inc.

On behalf of  
Peanut and Tree Nut Processors Association  
Snack Food Association  
National Confectioners Association  
American Peanut Product Manufacturers, Inc.

Before  
Subcommittee on Livestock and Horticulture  
Committee on Agriculture  
U. S. House of Representatives  
October 1, 2003

Mr. Chairman and members of the Subcommittee:

My name is Jerry M. Place and I am President of the Western Nut Company, Inc., a Utah corporation. As a member of the Board of Directors of the Peanut & Tree Nut Processors Association, I represent the one hundred and fifty one (151) members of the organization whose primary objective is to improve and advance our industry. I also appear today on behalf of the members of the Snack Food Association, the National Confectioners Association, and the American Peanut Product Manufacturers, Inc., who manufacture and sell snack nut products.

Three weeks ago if someone had told me that I would be sitting before a subcommittee of the United States House of Representatives, I would have told them they were “nuts”. But here I am. I appreciate that fact that you have set aside time to take testimony regarding country of origin labeling for certain commodities, especially peanuts.

I come before you today because of the grave implications mandatory country of origin labeling requirements, which are scheduled to take effect on September 30, 2004, will have on our industry and more particularly, small businesses such as my own.

Our factory and primary store is located near the heart of downtown Salt Lake City, Utah. The company was founded in 1966 and has seen steady growth since its inception. We are a family owned small business that processes, packages and sells roasted, salted and mixed nuts at distributor, wholesale, and retail pricing.

During the holiday season we sell our product at retail in all regional malls in the state of Utah and in several Idaho locations. Additionally, we have built a substantial loyal customer base through our catalog and website marketing. We have repeat customers in every state and the company continues to grow at a moderate but steady pace. In the more than thirty seven years of our existence we have prospered in both good and bad economic times.

We employ 30 to 35 full time employees and that number explodes to in excess of 250 employees during the fourth quarter of each calendar year. Our annual revenue is slightly less than \$6,000,000. Our annual gross payroll is in excess of \$800,000. I realize this is a tiny drop in the bucket of this nation's economy, but it is our drop and it is everything to my employees, their families, my family, and me.

The nature of small business is such that each owner or entrepreneur must focus like a laser on daily operations in the industry in which he or she is invested. For most of us there is no such thing as a forty-hour workweek or a real day off. And we are genuinely hard-pressed to take time away from our business to lobby Congress. Why do we work as hard as we do? Primarily because we love our work and the benefit it affords our employees, our families and us.

I find it somewhat ironic that my first real venture into business was facilitated by a federal program, namely a Small Business Administration loan. Now some thirty-five years later the company I own with my two brothers-in-law is being placed in potential peril by a new federal mandate—country of origin labeling for peanuts. I guess the federal government does “giveth and taketh away.”

It is difficult to believe that the closure of small business operations such as ours was the intent of Congress when it included the mandatory country of origin labeling provisions in the most recent Farm Bill. However, this will be the likely outcome unless you in Congress correct the problem.

Based on the voluntary guidelines that USDA has already published, we anticipate that the mandatory country of origin program that will take effect in late 2004 will cover snack peanuts. I find this very hard to understand in light of the statutory exemption that Congress provided for “processed food items”. Now I am no lawyer, but I do think I can understand the plain meaning of the term “processed food item”. And if shelling,

roasting and adding ingredients do not result in a processed food product that is materially changed from a raw in-shell peanut, then I certainly would like to know what it is that we do every day at our processing plant.

Implementation of mandatory country of origin requirements is simply a logistical and economic impossibility for a company of our size and would in effect put us out of business. Though we are small, we have in excess of 1,189 “stock keeping units” (SKU) that contain nuts. Of this total, 520 SKUs contain peanuts. The heart of our business is centered around gourmet nuts that are presented in custom award winning packaging. Under a mandatory country of origin labeling program as currently contemplated by USDA, we would be required to pre-print each and every one of our gift boxes in advance in every possible combination of various countries of origin. We do not have adequate inventory storage space to house the proposed packaging inventory. Additionally, it would be virtually impossible to track the movement of individual peanuts as they move through our processing operation from receiving, through processing, on to packaging where the appropriately labeled box would have to be to receive the product. I have enclosed with this testimony one of our holiday season 2003 retail catalogues that will give you an idea of the complexity involved in providing appropriate labels for each different product. I’m also submitting for the hearing record copies of comments filed earlier this year that the Peanut and Tree Nut Processors Association and the Snack Food Association jointly submitted to USDA, which explains in more detail our view that roasted and shelled peanuts constitute a “processed food item”.

One might say, “simply purchase domestic peanuts”. We do. But that is no solution for me because we have to provide country of origin labeling for U.S. peanuts too. And pray tell, what do we do in a year when the domestic peanut crop fails, as it has periodically in the past, and there is inadequate supply? Furthermore, how would the small U.S.-based nut processor compete price wise with imported prepackaged products that carry a country of origin label of the nation where the peanut was processed and packaged rather than the actual origin of the peanut? That is exactly the position my company will be put in if the Farm Bill’s country of origin labeling requirements for peanuts are not altered.

Some of the larger corporations in our industry may be able to comply with the proposed regulations because they can push the cost back on the grower or spread the cost over a huge volume. Other large corporations have simply said that they are investigating the option of relocating to Ontario, Canada or Mexico. Still others have indicated the possibility of exiting the peanut business altogether and concentrating on almonds or cashews. None of these alternatives is an option for a company of our size. We would simply be out of business!

I think I speak for all the little guys in our industry when I say please reconsider this whole idea of mandatory country of origin labeling for peanuts. Why would it be in the best interest of our nation to encourage large processors to leave the country, put the small processors out of business and discourage new start-up operations? And perhaps most importantly for members of Congress who represent peanut-growing regions, what

will all this mean for peanut growers here in the U.S.? That is one question I can answer with confidence. It means reduced returns for producers, and decreased consumer demand for snack peanuts as retail costs go up to pay for mandatory labeling.

In short, everybody loses—nobody wins. Does this make economic or political sense? I think not.

In the most emphatic of terms I respectfully ask you to move as expeditiously as possible to correct this situation so that we can avoid the unintended but nevertheless adverse consequences of mandatory country of origin labeling for peanuts.

Thank you for your attention and consideration of this important matter.